

EXHIBIT 5

EXHIBIT 5

FILED
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CV17-00360
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Jacqueline Bryant
Clerk of the Court
Transaction # 5977514 : yvilonia

1 Code: 1670
2 PAUL J. ANDERSON, ESQ.
3 Nevada Bar No. 709
4 PROCTER J. HUG, IV, ESQ.
5 Nevada Bar No. 12403
6 MAUPIN, COX & LeGOY
7 4785 Caughlin Parkway
Reno, Nevada 89519
Telephone: (775) 827-2000
Facsimile: (775) 827-2185
Attorneys for Plaintiff

8 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

9 IN AND FOR THE COUNTY OF WASHOE

10
11 BAKKEN RESOURCES, INC., a Nevada
12 corporation,

13 Plaintiffs,

Case No.: CV17-00360

14 vs.

Dept. No.: B13

15 ALLAN G. HOLMS, an individual, MANUEL
16 GRAIWER, and individual, DOES 1-10 and ROE
17 ENTITIES I-X,

18 Defendants.

19
20 **PLAINTIFF BAKKEN RESOURCES, INC.'S EX PARTE MOTION TO EXTEND**
TEMPORARY RESTRAINING ORDER ON ORDER SHORTENING TIME

21 Plaintiff, BAKKEN RESOURCES, INC., a Nevada Corporation ("BRI," "the Company,"
22 or "Plaintiff"), submits the following Ex Parte Motion to Extend Temporary Restraining Order
23 on Order Shortening Time.

24 This Motion is made pursuant to the provisions of NRCP 65(b) regarding temporary
25 restraining orders as well as WDCR 11(3) regarding orders shortening time.
26

1 This Ex Parte Motion is based on the following:

2 A. The Memorandum of Points and Authorities attached hereto;

3 B. All of the pleadings on file in the above-entitled matter, including the Temporary

4 Restraining Order entered by this Court on February 21, 2017;

5 C. The Affidavit of Paul J. Anderson, Esq., filed in support of this Motion, attached

6 hereto as Exhibit "1," and the Affidavit of Due Diligence executed by Jeremiah Grimes of Elite

7 Legal Services attached hereto as Exhibit "2," and incorporated herein by reference; and

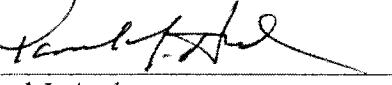
8 D. All of the records, documents, papers and pleadings on file or to be filed in the

9 above-entitled matter, arguments of counsel, and any other matter that may properly come before

10 the Court for its consideration of this Motion.

12 Dated this 2nd day of March, 2017.

13 Maupin, Cox & LeGoy

14 By: 

15 Paul J. Anderson

16 Nevada State Bar No. 709

17 Procter J. Hug, IV, Esq.

18 Nevada State Bar No. 12403

19 4785 Caughlin Parkway

20 Reno, NV 89519

21 Tel.: (775) 827-2000

22 Fax: (775) 827-2185

23 Attorneys for Plaintiff

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EX PARTE
MOTION TO EXTEND TEMPORARY RESTRAINING ORDER ON ORDER
SHORTENING TIME**

Plaintiff, above named, submits the following Memorandum of Points and Authorities in support of its Ex Parte Motion to Extend Temporary Restraining Order on Order Shortening Time.

1

STATEMENT OF FACTS PERTINENT TO MOTION

On February 21, 2017, Plaintiff filed a Verified Complaint (“Complaint”) which attached numerous exhibits, including affidavits and declarations from various individuals supporting the allegations of the Complaint, as well as an Ex Parte Motion and Application for Temporary Restraining Order and Request for Hearing on Preliminary Injunction. That same day this Court entered the Temporary Restraining Order (“TRO”) requested by Plaintiff. That Order states in paragraph 5, that an evidentiary hearing to determine whether the TRO be extended to a preliminary injunction is set for Monday, March 6, 2017 at 9:00 a.m. Additionally, the Order provides that the TRO will expire within fifteen (15) days following its entry on February 21, 2017 at 3:40 p.m. Accordingly, the TRO is set to expire on or about March 8, 2017 at 3:40 p.m.

Following the February 21, 2017 hearing, undersigned counsel had Summons issued for the Defendants in this case. Since Defendant Allan G. Holms is the individual restrained by the TRO, service of process efforts have been centered on Mr. Holms. Undersigned counsel retained Elite Legal Services for purposes of serving Mr. Holms at his residence in Spokane, Washington. All of these facts are verified through of the Affidavit Paul J. Anderson, Esq., attached hereto as Exhibit "1" and incorporated herein by reference.

On March 2, 2017 Mr. Anderson received an Affidavit of Due Diligence from Jeremiah

Grimes, a manager at Elite Legal Services, who detailed the efforts made by Elite Legal Services to effectuate service of process of the Verified Compliant, Motion for Temporary Restraining Order, and the Temporary Restraining Order on Allan G. Holms. As the Court can see in reviewing that document diligent efforts have been made by Elite Legal Services to serve Allan G. Holms, but those efforts have failed to date. Additionally, according to Mr. Grimes, it appears as though Allan Holms is attempting to avoid service of process at this time which has made it all the more difficult to effectuate service of process.

In light of the above, and because good cause exists, Plaintiff respectfully requests that the TRO be extended for at least an additional fifteen (15) day period in accordance with the provisions of NRCP 65(b).

II.

ARGUMENT

Rule 65(b) of the Nevada Rules of Civil Procedure sets forth the process for obtaining a temporary restraining order and a preliminary injunction. Applicable to this Motion is a portion of NRCP 65(b) which reads as follows:

...Every temporary restraining order granted without notice shall be indorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed 15 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record....

As indicated above, counsel made immediate and diligent efforts to serve Allan G. Holmes with the Verified Complaint, Motion for Temporary Restraining Order and the Temporary Restraining Order that were filed with this Court on February 21, 2017. As shown by the

Affidavit of Due Diligence executed by Jeremiah Grimes of Elite Legal Services, diligent efforts have been made to serve Mr. Holms at his residence in Spokane, Washington beginning on February 22, 2017, the day after the TRO was entered. Elite Legal Services indicates that it appears that Allan Holms is attempting to avoid service of process. In light of that fact and because the TRO will expire on or about March 8, 2016, and further because a hearing is presently set for March 6, 2017 at 9:00 a.m., counsel respectfully requests that the TRO be extended for fifteen (15) days through and including March 23, 2017 at 3:40 p.m. so that process may be served on Allan G. Holms who will then be required to appear and defend against the Motion for Preliminary Injunction. Because the Preliminary Injunction hearing will involve witnesses who will be required to travel to Reno, Nevada, coupled with the fact Allen G. Holms has not been served, entry of this order prior to March 6, 2017 is necessary.

Because there is no party to serve at this time Plaintiff seeks this relief on an ex parte basis, and on an Order Shortening Time due to the fact that the hearing on the preliminary injunction as set by the Court's Order of February 21, 2017, will occur on Monday, March 6. 2017 at 9:00 a.m. Rule 11(3) of the WDCR states:

For good cause shown, the judge who is to try the case or if the judge is not in the courthouse during regular judicial hours, the chief judge, may make an ex parte order shortening time upon a satisfactory showing to the judge that a good faith effort has been made to notify the opposing counsel of the motion.

Since there is no opposing counsel to notify with respect to this particular Motion, Plaintiff respectfully requests the Court enter this Order pursuant to WDCR 11(3) and extend the TRO in this matter through and including March 23, 2017 at 3:40 p.m.

///

///

III.

CONCLUSION

Based on the foregoing, Plaintiff respectfully requests that this Court enter an Order granting Plaintiff's Ex Parte Motion to Extend Temporary Restraining Order through and including March 23, 2017 at 3:40 p.m.

NRS 239B.030 Affirmation

Pursuant to NRS 239B.030, the undersigned hereby affirms that this document does not contain the Social Security Number of any person.

Dated this 2nd day of March, 2017.

Maupin, Cox & LeGoy

By: Howard T. Smith

Paul J. Anderson, NSB # 709
Procter J. Hug, IV, Esq., NSB #12403
4785 Caughlin Parkway
Reno, NV 89519
Tel.: (775) 827-2000
Fax: (775) 827-2185

INDEX OF EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>PAGES</u>
1		
2		
3	1. Affidavit of Paul J. Anderson, Esq.	2
4	2. Affidavit of Due Diligence	2
5		
6		
7		
8		
9		
10		
11		
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EXHIBIT 1

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EXHIBIT 1

AFFIDAVIT OF PAUL J. ANDERSON, ESQ.

Paul J. Anderson, Esq., swears under penalty of perjury that the assertions set forth in this Affidavit are true:

1. I am an attorney licensed to practice law before all courts of the State of Nevada, including the Second Judicial District Court.

2. I am counsel of record for Bakken Resources, Inc. ("BRI"), a Nevada corporation in Case No. CV17-00360 presently pending in Department B13 of the Second Judicial District Court. I make this Affidavit in support of the Ex Parte Motion to Extend Temporary Restraining Order on Order Shortening Time file concurrently herewith.

3. The assertions I make in this Affidavit are based on my own personal knowledge except for those matters set forth herein upon information and belief as to which matters, I believe them to be true.

4. After obtaining the Temporary Restraining Order in the above-referenced action on February 21, 2017, my office immediately engaged in efforts to have Summons issued and to have the Verified Complaint, Motion for Temporary Restraining Order and the Temporary Restraining Order served on Allan G. Holms. In so doing, my firm retained Elite Legal Services in Spokane, Washington where Mr. Holms is known to reside. Attached as Exhibit "2," to the Ex Parte Motion to Extend Temporary Restraining Order on Order Shortening Time is a copy of the Affidavit of Due Diligence of Jeremiah Grimes, a manager at Elite Legal Services outlining the efforts engaged in by Elite Legal Services since February 22, 2017, to obtain service of process on Allan G. Holms.. As the Court can see in reviewing that Affidavit of Due Diligence, Elite Legal Services has made numerous efforts to effect service of process on Mr. Holms and is of the

opinion that Mr. Holmes is attempting to avoid service of process based on recent attempts to have him served.

5. Because Elite Legal Services has not been able to effectuate service on Mr. Holmes I am requesting that the Temporary Restraining Order entered by this Court on February 21, 2017 be extended an additional fifteen (15) days in accordance with NRCP 65(b) to allow an opportunity to complete service on Mr. Holmes so that a preliminary injunction hearing can be held.

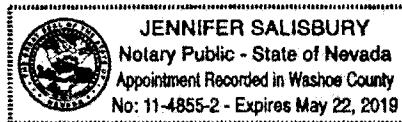
6. This requested extension is necessary because of the conduct of Allan G. Holmes which the Court initially enjoined on February 21, 2017 all of which is reflected in the Verified Complaint and Motion for Temporary Restraining Order on file with this Court.

Dated this 2nd day of March, 2017.

Paul J. Anderson, Esq.

STATE OF NEVADA)
:ss
COUNTY OF WASHOE)

Signed and Affirmed before me on
this 2nd day of March, 2017,
by Paul J. Anderson.



Notary Public

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Clerk of the Court

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EXHIBIT 2

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EXHIBIT 2

**SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE
COUNTY OF WASHOE**

**BAKKEN RESOURCES, INC., A NEVADA
CORPORATION**

CASE NUMBER: CV17-00360

Plaintiff(s)
v.

AFFIDAVIT OF DUE DILIGENCE

ALLAN G. HOLMS, AN INDIVIDUAL, ET AL

Defendant(s)

I, Jeremiah Grimes, as a Manager at Elite Legal Services, and being first duly sworn under oath, depose and say the following:

I am over the age of 18 and competent to sign this affidavit. I have personal knowledge of the facts and statements contained herein, and they are true and correct to the best of my knowledge. I am not a party in this matter, and I have no interest in the outcome of this case. I am familiar with the process serving laws governing service of process, and I have never been convicted of a felony.

On February 22, 2017 at approximately 11:07 AM, Elite Legal Services received the within **SUMMONS; PLAINTIFF BAKKEN RESOURCES, INC.'S EX PARTE MOTION AND APPLICATION FOR TEMPORARY RESTRAINING ORDER AND REQUEST FOR HEARING ON PRELIMINARY INJUNCTION; TEMPORARY RESTRAINING ORDER; VERIFIED COMPLAINT; EXHIBITS 1-15** for service on **ALLAN G. HOLMS**. We have made due and diligent effort to complete service of process, but we have been unable to successfully serve the documents. Our attempts of service and notes are as follows:

Date/Time	Address	Attempt Information
02/22/2017-7:05 PM	3625 W. WEST DRIVE SPOKANE, WA 99224 in SPOKANE COUNTY	B. THOMAS, A PROCESS SERVER OF ELITE LEGAL SERVICES, ATTEMPTED SERVICE OF PROCESS AT THIS LOCATION. THERE WAS NO ANSWER AT THE DOOR. B. THOMAS CALLED ALLAN G. HOLMS AT 509.979.5688, AND ALLAN G. HOLMS CLAIMED THAT HE WOULD BE OUT OF TOWN UNTIL NEXT WEEK.
02/23/2017-4:17 PM	3625 W. WEST DRIVE SPOKANE, WA 99224 in SPOKANE COUNTY	B. THOMAS, A PROCESS SERVER OF ELITE LEGAL SERVICES, ATTEMPTED SERVICE OF PROCESS AT THIS LOCATION. THERE WAS NO ANSWER AT THE DOOR, HOWEVER, THE LIGHTS WERE ON INSIDE, AND THERE WERE 3 DOGS BARKING INSIDE AS WELL.
02/24/2017-11:12 AM	3625 W. WEST DRIVE SPOKANE, WA 99224 in SPOKANE COUNTY	B. THOMAS, A PROCESS SERVER OF ELITE LEGAL SERVICES, ATTEMPTED SERVICE OF PROCESS AT THIS LOCATION. B. THOMAS TALKED TO A WOMAN WHO CLAIMED TO BE HOUSESITTING FOR ALLAN, AND SHE SAID THAT HE WAS NOT HOME.
02/27/2017-5:59 PM	3625 W. WEST DRIVE SPOKANE, WA 99224 in SPOKANE COUNTY	B. THOMAS, A PROCESS SERVER OF ELITE LEGAL SERVICES, ATTEMPTED SERVICE OF PROCESS AT THIS LOCATION. B. THOMAS SPOKE WITH THE HOUSEKEEPER, WHO VERIFIED THAT ALLAN WAS STILL OUT OF TOWN, AND WOULD NOT RETURN UNTIL THAT DAY OR THE FOLLOWING DAY.
02/28/2017-8:50 PM	3625 W. WEST DRIVE SPOKANE, WA 99224 in SPOKANE COUNTY	B. THOMAS, A PROCESS SERVER OF ELITE LEGAL SERVICES, ATTEMPTED SERVICE OF PROCESS AT THIS LOCATION. THERE WAS NO ANSWER AT THE DOOR. THE LIGHTS WERE ON, AND THERE WERE DOGS BARKING INSIDE. SOMEONE WHO WAS ABOUT 5'11" - 6" IN HEIGHT JUMPED UP, RAN TO A

DIFFERENT ROOM, AND STARTED TURNING OFF
THE LIGHTS. ALLAN G. HOLMS WAS LIKELY
HOME, AND AVOIDING SERVICE OF PROCESS.

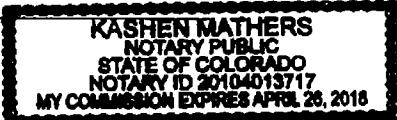
COURT DATE: 03/06/2017 COURT TIME: 9:00 AM

STATE OF COLORADO
COUNTY OF DENVER


X 
Jeremiah Grimes

Signed and sworn to before me on
this 1 day of March, 2017.

Notary Public 



Elite Legal Services
1685 S. Colorado Blvd. Suite S-180
Denver, CO 80222
303-635-6934

Client Reference Number: 18911.000
Lawyer Reference Number: 18911.000
ELS Number: 44153

MAUPIN, COX & LEGOY
4785 CAUGHLIN PARKWAY
RENO, NV 89519
Requestor: JENNIFER SALISBURY
(775) 827-2000, EXT. 134



44153